

John R. Dudley
Plaintiff, Pro Se
4105 Norma Loop
West Richland, WA 99353
(509) 420-0882
johnrdudley@charter.net

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON
SEP 23 2013
SEAN F. McAVOY, CLERK
DEPUTY
RICHLAND, WASHINGTON

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON

JOHN R. DUDLEY,)
)
Plaintiff)
)
vs.)
)
LUCASFILM LTD., TWENTIETH)
CENTURY FOX FILM)
CORPORATION,)
INTERNATIONAL CREATIVE)
MANAGEMENT et al.,)
)
Defendants.)

COMPLAINT FOR
INFRINGEMENT OF
COPYRIGHT

NO. CV-13-5107-RMP

I. Plaintiff.

1. Plaintiff John R. Dudley maintains his principal residence in West
Richland, Washington.

JOHN R. DUDLEY
4105 NORMA LOOP
WEST RICHLAND, WA
99353
(509) 420-0882
johnrdudley@charter.net

1 Complaint For Infringement Of Copyright

1
2
3 II. Defendants.

4 2. Defendant Lucasfilm Ltd. is now, and at all times material hereto was,
5
6 a corporation or other business entity organized and existing under the laws of
7
8 the State of California, with a registered Secretary of State entity number of
9
10 C0826382, and maintains its principal place of business in San Francisco,
11
12 California.

13 3. Defendant Twentieth Century Fox Film Corporation is now, and at all
14
15 times material hereto was, a corporation or other business entity organized and
16
17 existing under the laws of the State of California, with a registered Secretary of
18
19 State entity number of C1087812, and maintains its principal place of business
20
21 in Los Angeles, California.

22 4. Defendant International Creative Management is now, and at all times
23
24 material hereto was, a corporation or other business entity organized and
25
26 existing under the laws of the State of California, with a registered Secretary of
27
28 State entity number of C3064312, and maintains its principal place of business
in Los Angeles, California.

 5. The residence of defendant George Lucas is presently unknown to the
plaintiff.

2 Complaint For Infringement Of Copyright

1
2 6. The residence of defendant Charles Floyd Johnson is presently
3 unknown to the plaintiff.

4
5 7. The residence of defendant Rick McCallum is presently unknown to the
6 plaintiff.

7
8 8. The residence of defendant Anthony Hemingway is presently unknown
9 to the plaintiff.

10
11 9. The residence of defendant Aaron McGruder is presently unknown to
12 the plaintiff.

13
14 10. The residence of defendant John Ridley is presently unknown to the
15 plaintiff.

16
17 11. The defendants are collectively referred to herein as the defendants,
18 infringers or tortfeasors.

19
20
21 III. Jurisdiction and Venue.

22 12. This Court has jurisdiction over this action pursuant to Title
23 17 of the United States Code and Section 1338(a) of Title 28 of the United
24 States Code.
25

26 13. Federal jurisdiction is additionally invoked on the ground
27
28

1 that there is a complete diversity of citizenship between plaintiff and defendants,
2
3 and the amount in controversy exceeds \$75,000.

4 14. Venue is proper in this judicial district pursuant to Section
5
6 1391 and Section 1400 of Title 28 of the United States Code because plaintiff
7
8 resides in this judicial district and each defendant may be found in this judicial
9 district.

10 15. Each defendant has sought, and derived, benefits from
11
12 doing business in the State of Washington and is, therefore, subject to personal
13 jurisdiction under the long-arm statute of the State of Washington, RCW
14 4.28.185, and the doctrine of purposeful availment.
15

16
17
18 IV. Creation and Copyright Protection of Original Work.

19 16. In 1996 plaintiff created, as his sole work, an original motion picture
20
21 screenplay entitled "Red Tails."

22 17. Plaintiff's screenplay, as above-identified, is referred to herein as the
23
24 screenplay or original work.

25 18. The screenplay was created by plaintiff, was wholly original with
26
27 plaintiff and is a copyrightable subject under the laws of the United States.
28

4 Complaint For Infringement Of Copyright

1
2 19. Plaintiff secured a registration of his screenplay from the Writers
3 Guild of America West, Inc., bearing an effective date of September 16, 1996,
4 under Registration No. 641317.
5

6 20. Plaintiff secured a registration of his screenplay from the Writers
7 Guild of America West, Inc., bearing an effective date of November 19, 1996,
8 under Registration No. 647499.
9

10 21. Plaintiff secured a registration of his screenplay from the Writers
11 Guild of America West, Inc., bearing an effective date of April 30, 1998, under
12 Registration No. 704431.
13

14 22. Plaintiff secured a registration of his screenplay from the Register of
15 Copyrights of the Library of Congress, bearing an effective date of February 13,
16 2012, under Registration No. TXu 1-802-077.
17

18 23. From the time of plaintiff's creation of his screenplay, up to and
19 including all material times hereto, plaintiff has complied in all respects with
20 Title 17 of the United States Code and all other laws governing federal
21 copyrights.
22

23 24. Plaintiff has secured the exclusive rights and privileges in and to the
24 copyright of the original work referenced herein.
25
26
27
28

5 Complaint For Infringement Of Copyright

1
2 V. Claims.

3 25. Commencing on or about January 20, 2012, within three years prior to
4 the filing of this action, defendant Lucasfilm Ltd., having obtained access to
5 plaintiff's screenplay, infringed plaintiff's copyright in such original work by
6 releasing a motion picture entitled "Red Tails," referred to herein as the motion
7 picture, and selling, distributing, licensing, making DVD copies of the motion
8 picture, and selling, distributing, licensing, making DVD copies of the motion
9 picture and otherwise infringing plaintiff's original work.
10

11 26. Commencing on or about January 20, 2012, within three years prior to
12 the filing of this action, defendant Twentieth Century Fox Film Corporation,
13 having obtained access to plaintiff's screenplay, infringed plaintiff's copyright
14 in such original work by releasing the motion picture, and selling, distributing,
15 licensing, making DVD copies of the motion picture and otherwise infringing
16 plaintiff's screenplay.
17

18 27. On or about October 16, 1996 plaintiff's entertainment attorney,
19 Alexandra Denman, submitted plaintiff's original work to defendant
20 International Creative Management, and thereafter, at a time and place unknown
21 to plaintiff, such defendant improperly made plaintiff's screenplay available to
22 one or more of the defendants named herein and/or others by failing to inform
23
24
25
26
27
28

1 such companies, entities, individuals and others of the true provenance of the
2
3 copyrighted screenplay, thereby infringing plaintiff's original work.

4 28. Defendant George Lucas, the executive producer of the motion
5
6 picture, copied from the original work.

7 29. Defendant George Lucas appropriated protectable content from the
8
9 original work.

10 30. Defendant George Lucas has infringed the original work.

11 31. Defendant George Lucas exercised control or supervision over the
12
13 infringing motion picture, has a financial interest in the infringement and/or has
14
15 induced, caused or materially contributed to the infringing activity, and
16
17 accordingly is personally liable for infringing the plaintiff's original work under
18
the doctrines of vicarious liability and/or contributory infringement.

19 32. Defendant Charles Floyd Johnson, a co-executive producer of the
20
21 motion picture, copied from the original work.

22 33. Defendant Charles Floyd Johnson appropriated protectable content
23
24 from the original work.

25 34. Defendant Charles Floyd Johnson has infringed the original work.

26 35. Defendant Charles Floyd Johnson exercised control or supervision
27
28 over the infringing motion picture, has a financial interest in the infringement

1 and/or has induced, caused or materially contributed to the infringing activity,
2
3 and accordingly is personally liable for infringing the plaintiff's original work
4
5 under the doctrines of vicarious liability and/or contributory infringement.

6 36. Defendant Rick McCallum, a co-executive producer of the motion
7
8 picture, copied from the original work.

9 37. Defendant Rick McCallum appropriated protectable content from the
10
11 original work.

12 38. Defendant Rick McCallum has infringed the original work.

13 39. Defendant Rick McCallum exercised control or supervision over the
14
15 infringing motion picture, has a financial interest in the infringement and/or has
16
17 induced, caused or materially contributed to the infringing activity, and
18
19 accordingly is personally liable for infringing the plaintiff's original work under
20
21 the doctrines of vicarious liability and/or contributory infringement.

22 40. Defendant Anthony Hemingway, the director of the motion picture,
23
24 copied from the original work.

25 41. Defendant Anthony Hemingway appropriated protectable content
26
27 from the original work.

28 42. Defendant Anthony Hemingway has infringed the original work.

1
2 43. Defendant Anthony Hemingway exercised control or supervision over
3 the infringing motion picture, has a financial interest in the infringement and/or
4 has induced, caused or materially contributed to the infringing activity, and
5 accordingly is personally liable for infringing the plaintiff's original work under
6 the doctrines of vicarious liability and/or contributory infringement.
7

8
9 44. Defendant Aaron McGruder, a co-writer of the motion picture
10 screenplay, copied from the original work.
11

12 45. Defendant Aaron McGruder appropriated protectable content from the
13 original work.
14

15 46. Defendant Aaron McGruder has infringed the original work.

16 47. Defendant Aaron McGruder exercised control or supervision over the
17 infringing motion picture, has a financial interest in the infringement and/or has
18 induced, caused or materially contributed to the infringing activity, and
19 accordingly is personally liable for infringing the plaintiff's original work under
20 the doctrines of vicarious liability and/or contributory infringement.
21

22 48. Defendant John Ridley, a co-writer of the motion picture screenplay,
23 copied from the original work.
24

25 49. Defendant John Ridley appropriated protectable content from the
26 original work.
27
28

9 Complaint For Infringement Of Copyright

1 50. Defendant John Ridley has infringed the original work.
2

3 51. Defendant John Ridley exercised control or supervision over the
4 infringing motion picture, has a financial interest in the infringement and/or has
5 induced, caused or materially contributed to the infringing activity, and
6 accordingly is personally liable for infringing the plaintiff's original work under
7 the doctrines of vicarious liability and/or contributory infringement.
8
9

10 52. The defendants have engaged in unfair trade practices and unfair
11 competition in connection with their sale, distribution, licensing and other
12 marketing of the motion picture.
13
14

15 53. Plaintiff notified defendant Lucasfilm Ltd. in writing, on or about
16 May 12, 2012, that the motion picture infringed plaintiff's original work of the
17 same title, and demanded that defendant Lucasfilm Ltd. cease further
18 infringement of plaintiff's original work by refraining from any further sale,
19 licensing, distribution and other marketing of the motion picture.
20
21

22 54. Defendant Lucasfilm Ltd., in a letter by its counsel to plaintiff on or
23 about June 11, 2012, argued that Lucasfilm Ltd. had not infringed plaintiff's
24 original work and otherwise indicated that Lucasfilm Ltd. would not comply
25 with plaintiff's demand to cease infringement.
26
27
28

10 Complaint For Infringement Of Copyright

1 55. From the time of the release of the motion picture, commencing on or
2
3 about January 20, 2012 up to and including all material times hereto, the
4
5 defendants, as a collective ensemble of tortfeasors, have continuously been
6
7 infringing plaintiff's copyright in his original work in violation of Title 17 of the
8
9 United States Code and all other laws governing federal copyrights.

10 56. The defendants are jointly and severally liable.

11 57. Infringement of a registered copyright is a strict liability, federal tort,
12
13 with the result that all corporate officers, employees and agents of the corporate
14
15 defendants named herein who participated in the infringement are individually
16
17 and personally liable without the benefit of a corporate veil.

18 VI. Infringement.

19 This section of the complaint particularizes certain discrete infringement,
20
21 as follows:

22 58. Plaintiff's screenplay created a story about the black fighter pilots of
23
24 World War II.

25 59. The original work is fictional and constitutes plaintiff's protectable
26
27 expression, with the limited exception of certain historical facts.

1
2 60. Content from the original work has been copied, lifted and otherwise
3 stolen by the defendants in order to make the motion picture.

4
5 61. Plaintiff's story is comprised of a number of scenes, consisting of
6 various incidents or events, and these scenes are aligned with other scenes
7 which, when taken as a whole, form the entirety of the original work.
8

9 62. The infringers have copied scenes and other protectable content from
10 the original work, and improperly used such scenes and other protectable
11 content in the motion picture without license, permission or other authorization
12 from the plaintiff.
13

14
15 63. The defendant's copying is not, generally speaking, verbatim in
16 nature, but for the most part consists of crude, transparent and illegal alterations
17 from plaintiff's original work in an apparent attempt to disguise the
18 infringement.
19

20
21 64. The motion picture has an approximate screen time of 1:54.49.9.

22 65. Approximately eighty percent (80%) of the motion picture screen time
23 includes, or otherwise derives from, the original work through the tortfeasor's
24 extensive copying of content from such work, based upon the aggregate time of
25 motion picture scenes containing some protectable expression from plaintiff's
26 original work.
27
28

12 Complaint For Infringement Of Copyright

1 66. The motion picture does not, in effect, tell its own original story
2
3 because it relies on the original fictional story lifted by the infringers from the
4 original work, with the exception of several supporting storylines, or portions
5 thereof, which have an aggregate screen time of approximately twenty percent
6 (20%) of the motion picture.
7

8
9 67. The protagonist in the original work, Benjamin O. Davis, Jr. (Colonel
10 Davis), was a leader of the black pilots during World War II.
11

12 68. The original work fictionally dramatizes Benjamin O. Davis, Jr. in a
13 number of fictional events, incidents and encounters.
14

15 69. The infringers have copied Colonel Davis's fictional actions and
16 dialogue from the original work, and placed such fictional content, or an
17 alteration thereof, in the motion picture by splitting Colonel Davis into five
18 motion picture characters: Colonel Bullard; Major Stance; Easy; Joe Little; and
19 Deacon.
20
21

22 70. Colonel Bullard mimics Colonel Davis, for example, when Colonel
23 Bullard reprimands one of his men, when he goes stateside to deal with a high-
24 level problem and when he argues the black pilot's cause before top brass.
25

26 71. Major Stance imitates Colonel Davis, for example, when Major
27 Stance conducts an audio-visual show in a darkened room for his pilots.
28

1
2 72. Easy mimics Colonel Davis, for example, when Easy is flying
3 alongside a black pilot who is shot down and killed.

4
5 73. Joe Little imitates Colonel Davis, for example, when Joe Little loses
6 control of his emotions over years and years of racial discrimination and
7 explodes in rage in front of some hostile, bigoted white officers, or when Joe
8 Little makes and flies a toy plane.

9
10 74. Deacon mimics Colonel Davis, for example, when Deacon leads the
11 squadron in group prayer and worship, but Colonel Davis's worship of "sweet
12 Jesus" in the original work has been crudely altered so that Deacon worships
13 "black Jesus" instead.
14

15
16 75. The plaintiff's original work referred to certain content from the 1925
17 Army War College Report, and the tortfeasors have copied this by referring to
18 the same report and duplicating plaintiff's paraphrase of such report.
19

20
21 76. The flight leader in the original work, Colonel Davis, struggles to
22 control a fictional personal demon, and the tortfeasors have copied this by
23 afflicting the motion picture's flight leader, Easy, with such a personal demon.
24

25 77. The original work introduced a fictional character, General Barringer,
26 a white officer, who is a friend of Colonel Davis and supportive of his cause,
27
28

1 and this fictional white officer is duplicated and cloned by the tortfeasors who
2 have renamed him Colonel Tomlinson.
3

4 78. The original work introduces General Barringer in a fictional two-
5 person meeting in a hallway of the War Department, and this scene is copied by
6 the tortfeasors through their introduction of Colonel Tomlinson in a two-person
7 meeting in the same hallway of the War Department.
8

9 79. General Barringer serves the role, through fictional storytelling, of
10 providing support and encouragement from the white officer corps for Colonel
11 Davis's cause, and this is copied by the tortfeasors because Colonel Tomlinson
12 serves the same role in the motion picture as General Barringer serves in the
13 original work.
14

15 80. The original work dramatized conflict between Colonel Davis's cause
16 and the bigoted white officer establishment in a fictional scene set in a
17 conference room in the War Department, with Colonel Davis sitting alongside
18 General Barringer on one side of the table with prejudiced white officers sitting
19 across the table from them, in which scene Colonel Davis and General Barringer
20 fend off verbal attacks from the white officers based on an adverse report and
21 negative media.
22
23
24
25
26
27
28

1 81. The tortfeasors have copied the described scene from the original
2
3 work by placing Colonel Tomlinson, who has been cloned from General
4
5 Barringer, alongside Colonel Bullard, who has been cloned from Colonel Davis,
6
7 facing the bigoted white officers (with the crude alteration of adding one extra
8
9 bigoted white officer across the table), and closely tracking the narrative
10
11 development in the original work as the bigoted white officers attack the black
12
13 pilots over an adverse report and negative media.

14 82. The original work fictionally dramatizes a scene in which the entire
15
16 ensemble of black pilots engage in prayer and worship before their first
17
18 important escort mission, and this fictional ensemble scene of prayer and
19
20 worship is duplicated by the tortfeasors.

21 83. The original work introduced a fictional white officer, General Locke,
22
23 who plans missions and seeks Colonel Davis's help with those missions.
24

25 84. The tortfeasors have copied and cloned General Locke from the
26
27 original work, renamed him General Luntz, and with his new name he serves the
28
29 same role in the motion picture as General Locke serves in the original work.

30 85. The defendants have duplicated a fictional two-person meeting
31
32 between Colonel Davis and General Locke from the screenplay, in which
33
34 General Locke seeks the help of Colonel Davis's pilots to escort his bomber

1 planes, by closely tracking the fictional narrative development of the original
2 work, but with the crude alteration of changing General Locke's "bumble bees"
3 to General Luntz's "rabbits" as a description for the white escort pilots who
4 stray from bombers to chase Nazi fighter planes.
5

6
7 86. The original work dramatized a fictional scene in which Colonel
8 Davis put on an audio-visual show for his pilots in a darkened room to
9 demonstrate the need for his pilots to stay close to bomber planes during escort
10 support duty, and this fictional scene has been carefully copied by the infringers
11 and placed in the motion picture at the same point as it appears in the original
12 work. In particular, the lights are turned back on at exactly the same time in
13 both the screenplay and the motion picture, and the pilots in both works bark
14 their war chant at the same time.
15

16
17 87. The original work introduced the fictional concept that angels will be
18 flying with the black pilots, and this has been duplicated by the infringers.
19

20
21 88. The original work introduced a fictional bomber pilot, Jake Ridpath,
22 who, in a fictional action sequence, had very low expectations from his black
23 escort pilots at the outset of a bomber run because of his deeply ingrained racial
24 prejudice toward black people as a race.
25
26
27
28

1
2 89. The tortfeasors have copied and cloned the original work's Jake
3 Ridpath, although he does not have a name in the motion picture, and placed
4 him in the motion picture in the same fictional action sequence, where it is
5 revealed through dialogue that he has very low expectations from his black
6 escort pilots at the outset of a bomber run because he is racially prejudiced.
7
8

9 90. The original work dramatizes the evolution of Jake Ridpath's outlook
10 from racial prejudice to one of acceptance and appreciation of the black pilots
11 within this fictional scene as the result of the excellent escort work of the black
12 pilots.
13
14

15 91. The tortfeasors have precisely tracked and duplicated the evolution of
16 Jake Ridpath's outlook toward the black pilots within this fictional scene by
17 having their corollary bomber pilot, Jake Ridpath's clone, reveal through
18 dialogue that he is no longer racially prejudiced and that he is now accepting and
19 appreciative of them (just like Jake Ridpath). In particular, the camera goes
20 inside the cockpit of the white bomber pilot to hear his words at the same time in
21 both the screenplay and the motion picture, and the words of Jake Ridpath and
22 his clone are almost exactly the same in the two works.
23
24
25

26 92. It is possible, in a general and hypothetical sense, that an original
27 fictional work on the black pilots of World War II would introduce, develop and
28

18 Complaint For Infringement Of Copyright

1 dramatize a white character who evolves from being prejudiced to not being
2 prejudiced.
3

4 93. It is not possible that all of the details from the original work
5
6 pertaining to Jake Ridpath would also appear in the motion picture unless those
7 details had been copied from the original work. These details include, but are
8
9 not limited to, the following: Jake Ridpath is racially prejudiced at the beginning
10 of a fictional bomber run; he looks out from his bomber plane cockpit and sees
11
12 black pilots flying alongside him as escort pilots; Jake has very low expectations
13 of them as a result of his racial prejudice; the black pilots stay close to the
14
15 bombers; after the bombers drop their bombs we go back inside Jake's cockpit;
16
17 he looks over at the black escort pilots; he comments that he is impressed by the
18
19 black pilot's escort work, reflecting the fact that he is no longer racially
20
21 prejudiced; and Jake says that he wants to fly with the black pilots again.

22 94. The defendant's infringement is revealed through their duplication of
23
24 extensive details from the original work, including taking all material details
25
26 pertaining to Jake Ridpath and placing of such details in the motion picture in
27
28 the same sequential order.

95. The original work dramatizes a fictional action sequence about the
fictional death of a fictional black fighter pilot.

19 Complaint For Infringement Of Copyright

1
2 96. The tortfeasors have copied every meaningful event, incident and
3 detail from the original work's fictional sequence involving the death of a black
4 pilot by inserting such events, incidents and details in the motion picture in the
5 same sequential order as they appeared in the original work. In particular, a lone
6 Nazi fighter plane comes out of the clouds at the same time, the Nazi kills the
7 black pilot at the same time and a black pilot barks an expletive at the same
8 time.
9

10
11
12 97. The original work dramatized a fictional scene involving a memorial
13 service for the black pilot who was killed, and the infringers have copied this
14 scene by placing a memorial service for the dead pilot in the same place as such
15 fictional scene appears in the original work.
16

17
18 98. The original work winds up with a fictional scene dramatizing a
19 fictional recognition ceremony for the entire ensemble of the black squadron,
20 and the tortfeasors have infringed plaintiff's copyright by lifting the original
21 work's recognition ceremony and inserting it into the motion picture in the same
22 place as it appears in the original work.
23
24
25
26
27
28

20 Complaint For Infringement Of Copyright

VII. Damages.

99. Plaintiff alleges that defendants have generated revenues and earned profits from their infringing activities.

100. Plaintiff alleges that defendants have derived approximately \$49,876,377 in revenue from the motion picture's domestic theatrical release.

101. Defendant's revenues from other sources is presently unknown to the plaintiff.

102. Plaintiff has suffered damages as the result of defendant's actions by, among other things, the diminution in value of plaintiff's copyright and civil rights in his original work.

VIII. Demand For Jury.

103. Plaintiff demands that this case be tried before a jury of twelve.

IX. Judgment and Enjoinment.

104. Plaintiff alleges that defendants will continue to distribute, sell, license and otherwise market the infringing motion picture.

1 105. The above-described actions of defendants have caused, and will
2
3 continue to cause, plaintiff great and irreparable harm, for which there is no
4 adequate remedy at law.
5

6
7 X. Prayer For Relief.
8

9 WHEREFORE, plaintiff requests judgment and relief against defendants
10 as follows:
11

12 106. For preliminary and permanent injunctions enjoining defendants,
13 including their agents, servants, employees, officers, directors, representatives,
14 and persons acting in concert with or for them, from selling, distributing,
15 marketing, conveying, transferring or otherwise making available to any other
16 entity or person DVDs or otherwise infringing plaintiff's copyright in the
17 original work.
18

19
20 107. For damages, pursuant Title 17 of the United States Code and other
21 applicable statutes and provisions, according to proof.
22

23 108. For attorney's fees.
24

25 109. For costs of suit.
26

27 110. For such other and further relief as the Court deems just, equitable
28 and proper.

22 Complaint For Infringement Of Copyright

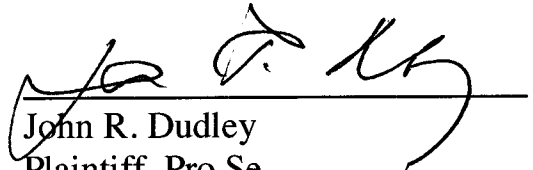
Declaration

The undersigned, JOHN R. DUDLEY, under penalty of perjury, hereby declares and states that this COMPLAINT FOR INFRINGEMENT OF COPYRIGHT is true and correct to the best of his knowledge and belief.

DATED:

SIGNED:

September 23rd, 2013


John R. Dudley
Plaintiff, Pro Se
4105 Norma Loop
West Richland, WA 99353
(509) 420-0882
johnrdudley@charter.net